

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-6267

GARRY DARNELL SAUNDERS,

Petitioner - Appellant,

versus

PORTSMOUTH CITY JAIL, Sheriff,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. T. S. Ellis III, District Judge. (CA-04-175)

Submitted: July 14, 2005

Decided: July 22, 2005

Before WILKINSON, LUTTIG, and MOTZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Garry Darnell Saunders, Appellant Pro Se. Eugene Paul Murphy, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Garry Darnell Saunders, a Virginia inmate, seeks to appeal the district court's denial of his 28 U.S.C. § 2254 (2000) petition and his subsequent motion to reconsider. We conclude Saunders' notice of appeal is untimely. A notice of appeal in a civil case must be filed within thirty days of the entry of the judgment being appealed. Fed. R. App. P. 4(a)(1). The district court, upon a finding of excusable neglect or good cause, may extend the time period for filing a notice of appeal an additional thirty days. Fed. R. App. P. 4(a)(5). The appeal periods established by Rule 4 are mandatory and jurisdictional. Browder v. Dir., Dep't of Corr., 434 U.S. 257, 264 (1978); United States v. Raynor, 939 F.2d 191, 197 (4th Cir. 1991).

The district court denied Saunders' § 2254 petition by order entered on July 7, 2004. His subsequent motion for reconsideration was denied by order entered on September 30, 2004. He did not file a notice of appeal until February 2005, over four months later, and never sought an extension of time in the district court. Thus, Saunders' notice of appeal is clearly untimely. Accordingly, we deny Saunders' motion for appointment of counsel and dismiss his appeal for lack of jurisdiction. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED